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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,759	10/29/2003	Fang-Zhong Chen	15436.247.5.1	7926
22913 WORKMAN N	7590 04/23/2007 YDEGGER	EXAMINER		
,	MAN NYDEGGER & SEI	PATEL, PARESH H		
60 EAST SOUT 1000 EAGLE G			ART UNIT	PAPER NUMBER
SALT LAKE C		2829		
SHORTENED STATUTORY	PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE	
31 DAYS		04/23/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

		Application No.	Applicant(s)			
Office Action Summary		10/696,759	CHEN ET AL.			
		Examiner	Art Unit			
		Paresh Patel	2829			
	The MAILING DATE of this communication app	ears on the cover sheet with the c	orrespondence address			
	Period for Reply					
WHIC - Exter after - If NO - Failu Any I	ORTENED STATUTORY PERIOD FOR REPLY CHEVER IS LONGER, FROM THE MAILING DANS INSTRUCTION OF THE MAILING DANS IN THE MAILING DANS IN THE MAILING DANS IN THE MAILING DANS IN THE MAILING DEPICT OF THE MAILING DEPICT OF THE MAILING DANS IN THE MAILING DEPICT OF THE MAILING DANS IN THE MAILIN	ATE OF THIS COMMUNICATION 36(a). In no event, however, may a reply be tim rill apply and will expire SIX (6) MONTHS from cause the application to become ABANDONEI	lely filed the mailing date of this communication. D (35 U.S.C. § 133).			
Status						
1)⊠	Responsive to communication(s) filed on 17 Ja	nuary 2007.	•			
2a) <u></u> □	This action is FINAL . 2b) This action is non-final.					
3)	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is					
closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.						
Dispositi	ion of Claims					
4) Claim(s) <u>1-26</u> is/are pending in the application.						
4a) Of the above claim(s) is/are withdrawn from consideration.						
5) Claim(s) is/are allowed.						
6)□	Claim(s) is/are rejected.					
7)	Claim(s) is/are objected to.					
8)⊠	Claim(s) <u>1-26</u> are subject to restriction and/or e	election requirement.	•			
Application Papers						
9) 🗌	The specification is objected to by the Examine	r.				
•	The drawing(s) filed on is/are: a) acce		Examiner.			
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).						
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.						
Priority u	ınder 35 U.S.C. § 119					
12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).						
a) ☐ All b) ☐ Some * c) ☐ None of: 1. ☐ Certified copies of the priority documents have been received.						
2. Certified copies of the priority documents have been received in Application No						
3. Copies of the certified copies of the priority documents have been received in this National Stage						
	application from the International Bureau (PCT Rule 17.2(a)).					
* See the attached detailed Office action for a list of the certified copies not received.						
	•					
Attachmen	t(s)					
1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413)						
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date Notice of Informal Patent Application						
3) Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date 6) Other:						

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DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Species as described at paragraph 007 to 011, claims 1-17, 19-20, 23-26 in the reply filed on 01/17/2007 is acknowledged. However during examination, the Examiner found following different inventions. Therefore, the restriction requirement of the last office action is further extended to include the following restriction requirement.

- 2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-5 and 25, drawn to a system for testing optoelectronic devices, classified in class 324, subclass 753.
 - II. Claims 6-11, drawn to a system for life testing laser diodes, classified in class 324, subclass 767.
 - III. Claims 12-19, drawn to a system for testing optoelectronic devices, classified in class 324, subclass 754.
 - IV. Claims 20-24 and 26, drawn to a method of testing laser diodes, classified in class 324, subclass 767.

The inventions are distinct, each from the other because of the following reasons:

3. Inventions I, II and III are directed to related products. The related inventions are distinct if the (1) the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect; (2) the inventions do not overlap in scope, i.e., are mutually exclusive; and (3) the inventions as

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claimed are not obvious variants. See MPEP § 806.05(j). In the instant case, the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect e.g. structure and usage. Furthermore, the inventions as claimed do not encompass overlapping subject matter and there is nothing of record to show them to be obvious variants.

- 4. Inventions IV and (I-III) are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the process as claimed can be practiced by another and materially different apparatus such as by using apparatus of inventions I, or II, or III.
- 3. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.
- 4. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art due to their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

5. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paresh Patel whose telephone number is 571-272-1968. The examiner can normally be reached on 8:00 to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ha Nguyen can be reached on 571-272-1678. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Paresh Patel
Primary Examiner
Art Unit 2829

April 13, 2007